THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6589 of 2006

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DATED:03-04-2006

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BETWEEN

Habeeb Saleh.

…PETITIONER

AND

The Assistant City Planner, Circle No.1, Municipal Corporation of Hyderabad, Sardarmahal, charminar, Hyderabad and another.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6589 of 2006

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of first respondent and his staff asking the petitioner on 01-04-2006 to surrender the original sale

deeds along with the premises Nos.18-2-44/9 and 18-2-44/1, situated at Chandrayanagutta, Hyderabad, by 05-04-2006, as illegal and arbitrary and to direct the respondents not to dispossess the petitioner from his premises without following due process of law.

The case of the petitioner is that he is the absolute owner and possessor of the above said premises situated at Chandrayanagutta, Hyderabad and he has leased out his premises to a Firm on a monthly rent of Rs.6000/-. It is stated that on 01-04-2006 the first respondent along with his staff visited the premises of the petitioner and directed the petitioner to hand over the original documents of the said premises, by 05-04-2006, and threatened to demolish the same for the purpose of road widening.

The learned counsel for the petitioner submits that for the purpose of widening the road the respondents directed the petitioner to hand over the original documents of his premises and the respondents are proposing to demolish the same without following due procedure prescribed in law. He further submits that even under the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') without acquiring the lands of the private citizens, portion of any property cannot be taken away for the purpose of road widening, either by way of private negotiations or by way of initiating proceedings under the Act. He further submits that the petitioner has not encroached any road and he has constructed the building or structures as per the approved plan only.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of a number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,

the respondents are directed not to demolish or take away any portion of the property of the petitioner and not to dispossess him without following due process of law under Section 172(2) or 174 of the Act.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

Dated: 03-04-2006

sj